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IN MEMORY OF

JUDGE DOUGLASS BOARDMAN

FIRST DEAN OF THE SCHOOL

By his Wife and Daughter

A. M. BOARDMAN and ELLEN D. WILLIAMS



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THE
FACTS AND HISTORICAL EVENTS
OF
THE TOLEDO WAR
OF 1835,

AS CONNECTED WITH THE FIRST SESSION OF THE COURT OF
COMMON PLEAS OF LUCAS COUNTY, OHIO.

BY W. V. WAY,
PERRYSBURG, O.

TOLEDO:
DAILY COMMERCIAL STEAM BOOK AND JOB PRINTING HOUSE.

1869.

112183,

CORRESPONDENCE.

At the semi-annual meeting of the Raisin Valley Historical Society, held at Tecumseh, Michigan, December 22d, 1868, at the close of an able and important address on the subject of the "Toledo War," the following Resolution was unanimously adopted:

Resolved, That the address of the Hon. W. V. WAY, of Perrysburg, Ohio, on the "Toledo War," with such modifications as may be desired, if any, by the writer, be requested for publication by this Society.

B. D. BAXTER, Sec'y.

HON. W. V. WAY,

Dear Sir:

Herewith we transmit you a copy of the Resolution adopted by the Raisin Valley Historical Society, requesting for publication your impartial history of the almost forgotten "Toledo War." This history is of renewed interest and importance to our people at this time, in view of the petition of the citizens of Lake Superior district to the Legislature of Michigan to re-cede to the United States, so much of our Upper Peninsula as was annexed by an act of Congress to Michigan, in exchange for the loss of territory on our Southern border.

The petitioners desire the formation of a Territorial government over the Upper Peninsula, with the hope of obtaining material aid from Congress to develop its natural wealth, until admitted in the Union as a separate State.

If Michigan generously accedes to the prayer of the petitioners, will Ohio be equally generous and return to us the "disputed territory," made *classic* in our history during the "Toledo War," as the battle ground of pioneer chivalry?

Respectfully yours,

M. A. PATTERSON, President R. V. H. S.

E. N. NICHOLS, Act. Sec'y.

Tecumseh, Michigan.

PERRYSBURG, February 11, 1869.

MESSE^S. M. A. PATTERSON, President, and E. N. NICHOLS, Secretary,
Raisin Valley Historical Society,

GENTLEMEN: Your communication, with the Resolution of the Raisin Valley Historical Society, has been received. The Toledo War History is at your disposal.

It was originally written as a contribution to the Maumee Valley Pioneer Association. Although most of the incidents recorded took place in the Maumee Valley, and properly form a part of its local history, yet many of them occurred in, and equally form a part of the local history of the Raisin Valley.

The valorous deeds performed by the soldiers of Lenawee and Monroe Counties are well remembered, and duly appreciated by the old soldiers of Wood and Lucas Counties. The warriors on both side performed their parts sowe ll, that it would be almost criminal in the historian of their exploits, to indulge in partiality.

If Michigan should now re-cede to the United States the valuable gift bestowed on her as a reward for her patriotism and zeal in defending the integrity of her soil, to create a new State in the Union, she will exhibit a generosity equalled only by the chivalry that merited the gift.

But while Ohio would applaud the deed, she is too regardful of the honor of Michigan, to lessen her merit by encouraging the performance of so generous an act with the interested expectation of a restoration of the "disputed territory."

Very respectfully yours,

W. V. WAY.

THE TOLEDO WAR.

In the early times of the Germans and Northmen of Europe, there was a custom, sanctioned by their Courts, that permitted a mode of trial called "wager of battle." This mode of trial was regarded as a great test of the honesty and sincerity of the parties that went to law. It permitted the defendant in a writ of right to apply for it; and allowed him to challenge his opponent to single combat to decide the case. It was unlike a modern duel, as the parties themselves did not fight; but chose some person to be their champion, to give and take the blows. The party whose fighting man flogged his opponent, had judgment entered in his favor for his claim.

This mode of trial was anciently introduced into England by her conquerors, but was not much practiced.

The persons that fought were required to make a stand up fight, until one or the other was completely vanquished, or until star-light appeared. The fight was conducted according to established rules.

I am not aware that this mode of trial was ever introduced into this country.

The case of *The State of Ohio vs. The Territory of Michigan*, in ejectment, in 1835, growing out of an adverse claim to what was commonly called the "disputed territory," comes the nearest to this ancient trial by wager of battle, of any that I have found; although in many respects it fails to come up to the ancient precedent.

A report of that trial necessarily embraces a history of the first session of the Court of Common Pleas of Lucas County. I propose to report it and give a history of the cause of action.

In order to make the case intelligible, I shall have to refer to many public documents of the United States, and of the State of Ohio and Territory of Michigan in connection with the "unwritten history." For much of the "unwritten history," I am under obligations to Gen. Joseph W. Brown, of Tecumseh, Michigan; Gen. John Bell, of Fremont, Ohio; and Col. Mathias Vanfleet, of Maumee City, Ohio.

The Ordinance of the 13th of July, 1787, providing a government for the territory north-west of the Ohio River, defined the northern boundaries of what are now the States of Ohio, Indiana and Illinois, by the line dividing the United States from the British Possessions; but contained a proviso "that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan."

On the 30th of April, 1802, Congress passed an act authorizing the people of the Territory of Ohio to form a State Constitution, preparatory to her admission into the Union; and described her northern boundary as follows:

"On the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line and thence with the same through Lake Erie, to the Pennsylvania line; Provided that Congress shall be at liberty at any time hereafter, either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory north of the River Ohio."

The compact referred to is contained in the aforesaid Ordinance.

On the 29th of November, 1802, a convention of the people of Ohio, adopted a constitution under the aforesaid act, giving the

State the same northern boundary as contained in the enabling act, with this proviso :

“Provided always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the Lake Erie east of the mouth of the Miami River of the Lake, then and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by and extend to a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami River aforesaid; thence north-east to the territorial line, and, by the said territorial line, to the Pennsylvania line.”

The Maumee River, in the acts of Congress and treaties with the Indians, was called the Miami of Lake Erie, or the Miami of the Lake. Wherever the Miami of the Lake or Miami Bay is used, it means the Maumee. Where the Great Miami is used, it has reference to the Great Miami River, which empties into the Ohio River at the south-western corner of the State of Ohio.

The State of Ohio was admitted into the Union and created into a judicial district on the 19th of February, 1803, without any allusion by Congress to the boundary line. On the 11th of January, 1805, Congress created the Territory of Michigan, and defined her boundaries as follows :

“All that part of the Indiana territory which lies north of a line drawn east from the southerly bend or extreme of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said Lake to its northern extremity, and thence due north to the northern extremity of the United States.”

Substantially reaffirming the original boundary contained in the act authorizing the Territory of Ohio to form a State Government.

Michigan extended her laws over and claimed jurisdiction to the above mentioned line given for her southern boundary.

This line is designated on our land maps as the “Fulton Line.” It intersects Lake Erie east of the mouth of the Miami of the Lake, or Maumee River, and comes within the proviso in the Constitution of Ohio.

It has been ascertained, that an east line drawn through the southerly bend of Lake Michigan will not intersect the territorial line between the United States and the British Possessions, but will pass just north of the mouth of the Cuyahoga River and divide the counties of Cuyahoga, Geauga and Ashtabula. The line, therefore, given by Congress for the northern boundary of Ohio was an impossible line : owing to a want of a knowledge of the geographical position of Lake Erie at the time Congress passed the enabling act.

The authorities of Ohio, on ascertaining the uncertainty of the northern boundary, applied to Congress for a survey of the line provided for in the proviso of the Constitution of Ohio.

Congress in 1812 passed a resolution directing the Commissioner of the General Land Office to cause it to be surveyed. But in consequence of the hostile attitude of the Indians near the line, by reason of the war with Great Britain, the line was not run until the year 1817. In that year, the line was run and marked by William Harris in conformity to instructions from the Surveyor General. It was called the "Harris Line," afterwards, from the name of the Surveyor.

This survey was reported from the Land Office Department to the Executive of Ohio, and on the 29th of January, 1818, the Legislature, by resolution, ratified and adopted that line as the northern boundary of the State.

Subsequently, the Legislature of Ohio, from time to time, made applications to Congress, to ratify and establish the Harris Line as the boundary between Ohio and Michigan without success, until after the events of 1835, so memorable in the conflicts of those governments.

The territory in dispute extends the whole length of the north line of the State of Ohio, and is about five miles in width at the west end, and about eight miles in width at the east end. This disputed territory is chiefly valuable for its rich and productive farming lands, and for the possession of the harbor on the Maumee River, where now stands the flourishing City of Toledo. In the early settlement of Toledo, the place was known as Swan Creek ;

afterwards Port Lawrence, then Vistula, and now known as Toledo. The early settlers acquiesced in being governed by the laws of Michigan Territory.

The State of Ohio, as early as 1825, contemplated the construction of a navigable Canal from the Ohio River at Cincinnati to the navigable waters of the Maumee. The Canal was constructed as far north as Piqua, and there terminated for a number of years in consequence of the sparse population between that point and its contemplated termination.

In 1835 the settlement of the country had become quite considerable, and the people in the north-west became clamorous for the extension of the Canal north to its completion.

By this time the navigation of the Maumee River to the foot of the Rapids at Perrysburg and Maumee, was fully ascertained to be not as good as to Toledo, and therefore the authorities of the State deemed it of the utmost consequence to have the territory embracing the mouth of Swan Creek, including Toledo, for the termination of the Canal.

The few inhabitants at the mouth of Swan Creek regarded their future consequence as a town, dependent on getting the termination of the Canal; and therefore, suddenly became convinced that they were living in the wrong State, and that if by going into Ohio the place would not be more healthy, it would certainly be more profitable. The principal citizens of the place, therefore urged Governor Lucas to extend the laws of Ohio over them.

The necessity of immediately constructing the Canal, and the urgent demands of the citizens of Toledo, induced the Governor to bring the subject before the Legislature by a special message. On the twenty-third of February, 1835, the Legislature of Ohio passed an act extending the northern boundaries of the counties of Wood, Henry and Williams, to the Harris Line.

The authorities of Michigan had previously exercised jurisdiction over the entire territory lying between the Harris Line on the north, and the Fulton Line on the south, as a part of Michigan.

It ought, however, to be mentioned, that the authorities of Wood county, at a period much earlier than 1835, attempted to extend

the laws of Ohio over that part of this territory claimed to be in that county, by levying taxes, but the people did not recognize the act, and refused to pay the taxes. These facts were reported to the Executive of the State for advice and assistance, but no attention was paid to the matter, and no real effort on the part of the State of Ohio to extend its laws over this territory was attempted until 1835.

The possession of the harbor at the mouth of Swan Creek, was the great inducement for Ohio to contend for this disputed territory. It is not apparent whether the people of Michigan, in contending to retain this territory, placed any particular value on retaining the harbor, or whether they were influenced by the general feeling of maintaining their legal right to what they conceived to belong to them by a fair interpretation of the acts of Congress, defining their southern boundary.

The strife and excitement attending the discussion and final settlement of the boundry has died away. We can look upon what has taken place since the settlement of the boundary in favor of Ohio's claims, as a reality; but we cannot tell how much better off Toledo is now, by being in Ohio, than she would have been in Michigan. If Ohio had failed to obtain the disputed territory, she would have terminated the Canal at the foot of the Rapids, and the navigation of the River would have been properly and sufficiently improved to that point. The foot of the Rapids would have been fostered by the State of Ohio to the exclusion of all benefits to Toledo, if possible. Toledo would have been fostered by the State of Michigan as its most important commercial point. The railroads that she has built to throw the trade into Detroit and Monroe, against natural obstacles, would have had their principal eastern terminations at Toledo. In accordance with the natural course of trade and State interest, Toledo would have been the "hub" of Michigan, and beyond a rivalry, to any great extent, from Monroe or Detroit.

The laws of Ohio could not have superseded the laws of God, and diverted trade and commerce for any considerable time out of its natural course. But these speculations are too foreign from

my subject, and I will leave them for the more important details of this history.

The act of the Legislature of Ohio, passed on the twenty-third of February, 1835, further provided "that such part of the territory declared by this act as being attached to the county of Wood, shall be erected into townships as follows, to wit: such part of ranges five and six as lies between the line run due east from the southern extremity of Lake Michigan and the line run from the said southern extremity to the most northern cape of the Maumee Bay, be and the same is hereby erected into a separate and distinct township by the name of Sylvania; and that all such part of ranges seven and eight, together with the territory east of the Maumee river, as lies between the line run from the southerly extremity of Lake Michigan to the most northerly cape of the Maumee Bay, and between Lake Erie and the line run due east from the southern extremity of Lake Michigan to Lake Erie, be and the same is hereby erected into a separate and distinct township, by the name of Port Lawrence;" and further authorized and directed those townships to hold elections for township officers on the first Monday in April next, and provided for their complete organization. It also directed the Governor to appoint three Commissioners to run and re-mark the Harris Line.

Uri Seely of Geauga, Jonathan Taylor of Licking, and John Patterson of Adams, were appointed Commissioners to run and remark the line. The first of April was named as the time to commence the survey. Stevens T. Mason, Secretary and acting Governor of Michigan Territory, anticipating the action of the Legislature of Ohio, sent a special message to the Legislative Council, apprising it of the special message of Governor Lucas, and advised the passage of an act to counteract the proceedings of Ohio.

The Legislative Council passed the following act on the 12th of February, thus getting eleven days start of Ohio in point of time:

"AN ACT to prevent the organization of a foreign jurisdiction within the limits of the Territory of Michigan.

SECTION 1. *Be it enacted by the Legislative Council of the Territory of Michigan, that if any person shall exercise or attempt to*

exercise any official functions, or shall officiate in any office or situation within any part of the present jurisdiction of this Territory; or within the limits of any of the counties therein, as at this time organized, by virtue of any commission or authority not derived from the Territory or under the Government of the United States, every person so offending shall for every such offense, on conviction thereof, before any Court of Record, be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not exceeding five years, or both, at the discretion of the Court.

SEC. II. *And be it further enacted*, that if any person residing within the limits of this Territory, shall accept of any office or trust from any State or authority other than the Government of the United States or Territory of Michigan, every person so offending shall be fined not exceeding one thousand dollars, or imprisoned five years, at the discretion of the Court before which any conviction may be had.

MORGAN L. MARTIN,

President of the Legislative Council.

Approved February 12, 1835.

STEVENS T. MASON."

There was a division of public sentiment among the inhabitants on the disputed territory, to which government they should yield allegiance. The following communication, sent to Governor Mason by some citizens of Port Lawrence township, shows that there were some supporters of the authorities of Michigan in that place:

MONROE, March 12, 1835.

To the HON. STEVENS T. MASON,

Acting Governor of Michigan Territory :

We, the citizens of the Township of Port Lawrence, county of Monroe, Territory of Michigan, conceive ourselves, (by force of circumstances), in duty bound to apply for a special act of the Legislative Council, authorizing the removal of the place appointed for holding our township meeting. By a vote of the last town meeting, (1834), our meeting of this year must be held at Toledo, on the Maumee river. We apprehend trouble, and perhaps a riot may be the consequences of thus holding the meeting in the heart of the very hot bed of disaffection.

We therefore pray your Excellency and the Legislative Council, to aid us in our endeavors to keep the peace and sustain our claims to the soil as part of the Territory of Michigan, by an act removing the place for holding the town meeting for the township of Port Lawrence, from Toledo to the school house on the Ten Mile

Creek Prarie, to be held on the — day of April, in preference to the usual day and place appointed.

J. V. D. SUTPHEN,
 COLEMAN I. KEELER,
 CYRUS FISHER,
 SAMUEL HEMMENWAY.

Delegates from Port Lawrence to the County Convention at Monroe.

The partizans of Ohio were equally zealous and active in its cause, and kept Governor Lucas advised of what was going on. The most prominent of them were Andrew Palmer, Stephen B. Comstock, Major Stickney, Willard Daniels, George McKay and Dr. Naman Goodsell.

Gov. Mason wrote to Gen. Brown, who was in command of the third division of the Michigan militia, as follows :

EXECUTIVE OFFICE, DETROIT, March 9, 1835.

SIR: You will herewith receive the copy of a letter just received from Columbus. You will now perceive that a collision between Ohio and Michigan is inevitable, and will therefore be prepared to meet the crisis. The Governor of Ohio has issued a proclamation, but I have neither received it, nor have I been able to learn its tendency. You will use every exertion to obtain the earliest information of the military movements of our adversary, as I shall assume the responsibility of sending you such arms, etc., as may be necessary for your successful operation, without waiting for an order from the Secretary of War, so soon as Ohio is properly in the field. Till then, I am compelled to await the direction of the war department.

Very respectfully your obedient servant,

STEVENS T. MASON.

GEN. JOS. W. BROWN.

On the thirty-first of March Governor Lucas, accompanied by his staff and the boundary Commissioners, arrived at Perrysburg on their way to run and re-mark the Harris Line, in compliance with the act of twenty-third February previous.

General John Bell, in command of the seventeenth division of Ohio militia, embracing the disputed Territory, arrived about the same time with his staff, and mustered into service a volunteer force of about six hundred men, fully armed and equipped. The

force went into camp at old Fort Miami, and awaited the orders of the Governor. The force consisted of five companies of the first regiment, 2d brigade of the 17th division of militia, under the command of Col. Mathias Vanfleet. The captains of these companies were Capt. J. A. Scott, of the Perrysburg company; Capt. Stephen S. Gilbert, of the Maumee company; Capt. John Pettinger, of the Waterville company; Capt. Felton, of the Gilead company, and Capt. Granville Jones, of the Lucas Guards, an independent company at Toledo.

These companies numbered about 300 effective men. There was also a part of a regiment from Sandusky county, commanded by Col. Lewis Jennings, and a part of a regiment from Seneca and Hancock counties, under command of Col. Brish, of Tiffin. These numbered about 300 more, making the total force 600 men.

I am unable to give the particulars of the recruiting of any of the companies in Col. Vanfleet's regiment, except that of Captain Scott. The recruiting of that company was as follows: Agreeably to military usages, he employed a drummer, to wake up the martial spirit of the inhabitants. Instead of establishing head-quarters at some particular place, he made them roving up and down nearly the whole length of Front street, in Perrysburg. That street was the only one, except Louisiana avenue, that contained many inhabitants. He selected a spot some distance below the Avenue, and one near the upper end of the town, between which the drummer was required to march and beat the drum, from early morning until night.

I am not certain whether there was a fifer or not. The drummer was a very large man by the name of Odle. He had a brother who was of usual size; but the drummer was so much larger than his brother, that he went by the name of the "Big Odle." He was a giant in size. He was so large, that while marching beating a common sized drum, the drum appeared in comparison of size with him, no greater than one of those small drums in toy shops for the use of little boys, would appear in the hands of an ordinary sized man. He wore a two story white felt hat, with a narrow brim; but by long use it had become softened and the

crown bulged up so that it was really a two story and an attic. A strip of paper with the words "recruiting for the war," in large letters printed on it, was fastened around it. His coat was an old rifleman's uniform of green color, trimmed with black lace. His pants were domestic cloth, colored with oak bark, and also trimmed with black lace down the legs.

Thus equipped, Odle accompanied by a man carrying the American Flag, marched up and down the street, beating the drum with great vigor from morning to night. This drumming continued for several days in succession. In the meantime the Court of Common Pleas of Wood County, commenced its session. Judge David Higgins was Presiding Judge. In going his beat up and down Front street, Odle had to pass by the Court House, standing on Sec. Lot No. 360, old survey of Perrysburg. The drumming after a while, became annoying to Judge Higgins. The Judge was a very nervous man, and somewhat irritable at times. One of his peculiar irritable moods came over him during this term of Court. He vented his feelings by pitching into Capt. Scott's drummer, instead of some young and modest member of the bar, as was his usual custom. He ordered the Sheriff to go out and stop that drumming. The Sheriff went to Odle and told him that he was ordered by the Court to stop his drumming. Odle replied, that he was under orders and pay from Capt. Scott to drum for recruits for the war. That he considered it his duty to obey him as a military authority, and should continue to beat the drum until stopped by *him*; or until he was satisfied that the Court had more authority than Capt. Scott. He marched on beating his drum, and the Sheriff went into the Court-room to report.

The Judge's eyes flashed lightning when he heard the report. The Sheriff was ordered to arrest Odle forthwith and bring him before the Court, and also summons Capt. Scott. All which was done in a few minutes. Capt. Scott was interrogated whether this man Odle was disturbing the Court under his orders. The Capt. replied that Odle was beating the drum under his orders, having received instructions from Col. Vanfleet to employ the music to aid in recruiting volunteers for the service of the State. He

further stated that Gov. Lucas, who was stopping at Spafford's Exchange, had sanctioned his proceedings before the Court commenced its session, and should therefore continue the music until ordered to stop it by Col. Vanfleet or his Excellency.

The Judge roared out in a stentorian voice, "Mr. Sheriff, take Capt. Scott and his music organ to jail and lock them up. Mr. Prosecuting Attorney, draw up an information against these men for contempt of Court, and have the case ready for hearing to-morrow morning."

The Sheriff, Jonas Pratt, made a move towards executing the order. Capt. Scott and Odle readily followed him down stairs to the corner of the building where there was a path leading to the log jail on the back end of the lot. Here a stand was made. The Sheriff's authority to imprison, was repudiated. The Capt. informed him that he should not sacrifice the interests of the State to gratify Judge Higgins's assumed authority. That in the emergency of war, when the State was invaded by an enemy, the military authority, on which the State relies for protection, is paramount to the civil authority; that although he regretted to disturb the proceedings of the Court, yet he could not consent to the enforcement of its order in his case. He gave the Sheriff to distinctly understand, that if he persisted in attempting to take him to jail, he would then and there on the spot, test the question of power, between himself and the Court. He told the Sheriff that if he made a single move further to imprison him, he would declare martial law, and do with him and Judge Higgins as General Jackson did with Judge Hall at New Orleans, put them both under arrest.

"That is right; that is right, Capt." said Odle, at the same time doubling up his two hands to about the size of elephant's feet. "That's the way to talk. Bully for you, Capt. Stand off, Sheriff."

By this time, there was a commotion in the crowd of bystanders, indicative that the Sheriff would have a lively time of it, in getting them to jail, if he should attempt it by force.

The Sheriff retreated up-stairs to the Court-room as soon as possible, and reported what had taken place at the door below.

The Judge never said a word in reply ; but continued in the trial of the case on hand, as if nothing unusual had happened.

Without losing any more time, Odle slung the drum strap over his neck, and continued his march and music as before up and down street. After some little time, the Judge directed the Sheriff to go and find Capt. Scott and ask him if he would be so good as to order that music to some back street, where it would interfere less with the court.

The enthusiasm for enlisting recruits was so great, that if the Court had attempted to enforce its order, it would have failed.

Capt. Scott acquired so much popularity by these proceedings, that he shortly after had no further use for his drummer. His company was made up at once.

Gov. Mason, with Gen. Joseph W. Brown, arrived at Toledo with a force under the immediate command of the latter, variously estimated from 800 to 1200 men. About the same time Gen. Bell got his forces organized at Miami, and went into camp, ready to resist any advance of the Ohio authorities upon the disputed territory to run the boundary line or doing other acts inconsistent with Michigan's right of jurisdiction over it.

Gen. Brown had for his staff, Capt. Henry Smith of Monroe, Inspector ; Maj. J. J. Ullman of Constantine, Quartermaster ; William E. Broadman of Detroit and Alpheus Felch of Monroe, Aids-de-Camp.

The two Governors, having made up an issue by legislative enactments, found themselves confronted by a military force that had been called out to enforce their respective legislative pleadings. Gov. Mason representing the tenant in possession, was content to rest at his ease. Gov. Lucas representing the plaintiff, had to open the trial. He found it convenient to observe a "masterly inactivity" for some days. The whole country in the meantime, became wild with excitement.

A ludicrous incident occurred on the Perrysburg side of the river, as follows : Most of the soldiers that came from a distance, came with their arms in small squads, as they happened to get together, without any organization. A well known citizen of Per-

rysburg, not having the war-like preparations much at heart, dressed himself in a commissioned officer's uniform, and mounted on a very fine horse, made something of a military display on the streets. As one of these squads arrived in Perrysburg over the Black Swamp road, and was about proceeding to the river to cross over to the place of rendezvous, this would-be-officer assumed authority over them, and undertook to conduct them down to the ferry. After proceeding some distance, the men doubted the authority of the man in military clothes leading them, especially, as they had heard many of the Perrysburg people did not think much of the war.

When the squad got near the river, they deployed into line and with fixed bayonets closed upon their leader between their line and the river, and called on him for his commission or authority that he claimed to exercise. They told him they were full blooded Buckeye Boys, come to defend the territorial rights of the State; if he was one of them, all right; if not, they intended to know it. By this time, he began to look for an opening for escape; but the boys closed up and moved steadily towards the river, with muskets at charge. Soon the officer was sitting upon his horse as far out in the river as the horse could go without swimming. The boys told him he should stay there until he showed his authority, or orders from Gen. Bell for his release. He was kept there until he nearly perished with cold, when a number of citizens of the town came and entreated the soldiers to let him off. I believe that was the last time that that individual commanded as a volunteer officer. The report that had gone out, that the people of Perrysburg did not think much of the war, did them great injustice; as the manner in which Capt. Scott recruited his company, the zeal exhibited by him, and the alacrity with which they enlisted, sufficiently prove.

Gov. Lucas had determined in his mind to order Gen. Bell with his force to Toledo as soon as he could make the necessary preparations, and risk the consequences; but before he had got his preparations made, two eminent citizens, Hon. Richard Rusk of Philadelphia, and Col. Howard of Baltimore, arrived from Wash-

ington as Commissioners from the President of the United States, to use their personal influence to stop all war-like demonstrations. Hon. Elisha Whittlesey of Ohio, accompanied the Commissioners, as a voluntary peace-maker. They remonstrated with him and reminded him of the fatal consequences to himself and the State, of a collision between the forces. They advised him to abandon forcible measures to get possession of territory, and wait for a peaceable settlement of the matter by Congress.

The Commissioners and Mr. Whittlesey had several conferences with both Governors, and finally on the 7th of April submitted the following propositions for their agent; to wit:

1st. "That the Harris Line should be run and re-marked pursuant to the Act of the last session of the Legislature of Ohio without interruption.

2d. The civil elections under the laws of Ohio having taken place throughout the disputed territory, that the people residing upon it should be left to their own government, obeying the one jurisdiction or the other, as they may prefer, without molestation from the authorities of Ohio or Michigan until the close of the next session of Congress."

It is a little singular that they should propose the same arrangements in regard to jurisdiction, that were entered into between Dr. Conant and Seneca Allen, two Justices of the Peace of Waynesfield Township, in now Lucas county, but then Wood county, in 1819, when they came in conflict, one holding his commission from the Governor of Michigan, and the other from the Governor of Ohio. The conflict and settlement of it, occurred in the following manner: Dr. Horatio Conant settled at Maumee in 1816. Gen. Cass, then Governor of Michigan, being intimately acquainted with him, either as a joke or in earnest, sent him a commission as Justice of the Peace in the county of Erie in the Territory of Michigan. This portion of the north-west Territory previous to and for some time after the organization of Michigan Territory, was called Erie County and District. The Dr. regarded the commission as a joke, and never contemplated acting under it. In 1819, Seneca Allen was an acting Justice of the Peace in Waynesfield Township

under the laws of Ohio, residing on the south side of the river, near old Fort Meigs. Waynesfield was the only organized township at that time in Maumee Valley.

His territorial jurisdiction was quite as large as the present Congressional District. He heard about Dr. Conant having a commission from the Governor of Michigan, and notified him that he must not attempt to do any business under it. Sometime in the month of December, 1819, Allen had an engagement to marry a couple on the north or Maumee side of the river. The river was high and full of running ice, and very unsafe to cross. Conant lived near the banks of the river, on the Maumee side. Allen lived near the bank on the Perrysburg side, and nearly opposite. Allen finding it impracticable to get over the river to fulfill his engagement, called to Dr. Conant across the river and requested him to marry the couple. The Dr. reminded him of the objections he had heretofore made to his right to act under his commission, and declined; but Allen insisted on his doing it, and stated that this was a case of necessity and that necessity knew no law; that his commission from the Governor of Michigan would do well enough for the occasion.

Conant married the couple and received a jack-knife for pay. Some time afterwards, the two Justices met and Allen made this proposition: He proposed for himself to exercise exclusive jurisdiction over the Territory on the Perrysburg or south side of the river, and that the two should have jurisdiction in common on the Maumee or north side of the river. Allen was very liberal, for he conceded more Territory about which there was no dispute, than there was of the disputed Territory.

Acting Governor Mason, refused to agree to the propositions of Messrs. Rusk and Howard. He claimed that although Congress had the power to change the boundary and give a portion of her Territory to Ohio, yet as her boundary was then defined, she had the right of possession and jurisdiction, and having acquired peaceable possession under the original act of Congress creating the Territory of Michigan, he would not compromise the rights of his people by a surrender of possession.

Governor Lucas, on the urgent request of the Commissioners, and Mr. Whittlesey, agreed, reluctantly, to accept the propositions as a peaceable settlement of the difficulty until Congress should settle it; or rather until after "the close of the next Session of Congress." Gov. Mason refused to acquiesce in the propositions. Gov. Lucas assented to them, in the light of regarding the Governor of a Territory in the condition of a subaltern, subject to the control of the President. He looked upon the arrangement, as made with the President, through Messrs. Rush and Howard as his representatives, and disbanded the Military force he had collected. Gov. Mason partially followed suite; but still continued making preparations for any emergency that might arise.

Gov. Lucas now thought he could run and re-mark the Harris Line without serious molestation from the authorities of Michigan, and directed the Commissioners to proceed with the work.

S. Dodge, an Engineer on the Ohio Canal, had been engaged as Surveyor to run the line. He addressed the following letter to Samuel Forrer, one of the Canal Commissioners of Ohio:

MAUMEE, April 11, 1835.

SAMUEL FORRER, Esq.,

DEAR SIR:—We were assured a short time since, by Messrs. Rush & Howard, that no resistance would be made by Michigan. It is now evident that there will be trouble, and the Governor of Ohio will not be able to accomplish the running of the line without calling out a strong military force. This cannot be done without first convening the General Assembly, in order to make the necessary appropriations. We shall start tomorrow for the north-western corner of the State; and the next time you hear from me, I shall probably inform you that I am at Monroe, the head-quarters of Gen. Brown. Gen. Brown was yesterday at Toledo at the head of the Sheriff's posse of 100 armed men. They came for the purpose of arresting those who have accepted office under the State of Ohio. He informed me that any attempt to run the line would be resisted by the whole force of the Territory. That they had 300 men under arms at Monroe and 600 more would soon be there; that they have 1500 stand of arms taken from the United States arsenal at White Pigeon. That they did not mean to be rode over rough *shod* by Ohio. It was replied that Ohio had not as yet put on her *rough shoes*; and would not unless they made it necessary; and that the line would certainly be run.

The Governor of Ohio started on the 8th inst., for Defiance and is entirely unprepared to meet the forces of Michigan. What course he will pursue, I do not know. Our party consist of 15 or 20 unarmed men; and if we proceed, we shall certainly be made prisoners, there not being a sufficient number to prevent surprise; I think the expedition will be delayed. The State of Ohio is affording no protection to the people on the disputed Territory further than through the civil authority. And those who have accepted office, have been obliged to retreat. The Governor has power to call out the Militia, but has no funds to sustain them.

Yours, Truly,

S. DODGE.

President Jackson applied to the Attorney General, Benjamin F. Butler of New York, for his official opinion in regard to his powers over the parties. The Attorney General, Mr. Butler, after referring to the two acts passed by Michigan and Ohio in February in regard to jurisdiction, said: "The acting Governor of the Territory of Michigan has issued orders to Brig. General Brown, of the Militia of the Territory, entrusting him with discretionary powers to order each brigade of such militia into actual service, so soon as the emergency requires it; and commanding him to arrest the Commissioners of Ohio the moment they stick the first stake in the soil of Michigan.

"In anticipation that the Governor of Ohio may order a Militia force to sustain the Commissiouers and officers of Ohio, General Brown is further commanded, "the moment he may learn that a military force of any description, ordered out by the authorities of Ohio, is about to approach the disputed Territory, to place himself, with a sufficient force of a like character, on the ground in contestation, and to fire upon the first Military officer or man who presists in crossing the boundary line as at present claimed by Michigan, with any hostile intention, or disposition and determination to prevent his execution of the previous orders."

The laws thus passed by the State and Territorial Legislatures, are equally irrepealable by the President. It is true that Congress has the power to annul any law of the Territory; but until so annulled, it will be obligatory on all persons within the limits of the Territory, unless repugnant to the Constitution of the United

States, or to the acts of Congress applicable to the Territory. The act of Michigan does not appear to me to be liable to any such objection ; and I must therefore deem it a valid law.

“The act of the legislature of Ohio, extending the jurisdiction of that State over a part of the Territory of Michigan, is, as we have seen, repugnant to the act of Congress of the 11th of January, 1805, creating that Territory, and to the acts subsequently passed for its government ; and its actual and complete enforcement would therefore involve a most serious violation of the Laws of the United States.

“But I do not think that the mere running of the boundary line directed by that law, would in itself, and without any attempt to exercise jurisdiction over the disputed Territory, constitute a criminal offense against any act of Congress. Nor would it so far obstruct the faithful execution of the laws of the United States, as to require any action of the President. The mere running of the line will, however, constitute an offense against the Territorial act of the 12th of February, 1835, and if the Commissioners of Ohio should attempt to execute the duties imposed on them by the law of their State, prosecution may be instituted against them in the proper Courts of the Territory ; although if the action of Ohio should be confined to the designation of the line, it is not preceived that any necessity can exist for such prosecution.”

Notwithstanding the views of the authorities at Washington, the Commissioners proceeded to run the line, commencing at the north-west corner of the State. Gen. Brown sent scouts through the woods, to watch their movements and to report when they found them running the line. When the surveying party had got within the county of Lenawee, the under-sheriff of that county, with a warrant and posse, made his appearance to arrest them. He arrested a portion of the party ; but the Commissioners and Surveyor Dodge made a timely escape, and run with all their might until they got off the disputed territory. They reached Perrysburg the next day with clothes badly torn ; some of them hatless, with terribly looking heads, and all with stomachs very much collapsed. They reported that they had been attacked by a large

force of Michigan Militia under Gen. Brown, and had been fired upon and had just escaped with their lives; and that they expected the balance of their party were killed or prisoners. They formally reported these facts to Gov. Lucas and he reported them to the President.

The President sent a copy of the report to Gov. Mason and directed him to send him a statement of the facts in regard to the treatment of the boundary Commissioners, "*by the officers engaged in the transaction complained of.*" Gov. Mason wrote Gen. Brown informing him of the communication from the President, and requested him to forward a report from the officers engaged, containing a detailed statement of what had been done; that he could forward it for the information of the President. Gen. Brown forwarded the following report from Wm. McNair, under-sheriff of Lenawee county, with his indorsement on the back in these words: "In consequence of reports being circulated through Ohio that the Boundary Commissioners had been fired upon by the Michigan military when the officers made the arrest, the following statement was officially made by the under-sheriff of Lenawee county who made the arrests, to the acting Governor of Michigan Territory, to correct such false reports:"

TECUMSEH, June 17, 1835.

To STEVENS T. MASON, Esq.,

Acting Governor of Michigan Territory.

SIR:—By your request, I have the honor of transmitting to you certified copies of the affidavits and warrants on which the officers of Ohio were arrested while attempting to re-mark Harris' Line, and as the report of the Commissioners to Gov. Lucas and letters published by them are calculated to give a false coloring to the transaction, and mislead the public, I forward to you a detailed statement of the facts from my own observation: On Saturday afternoon, April 25th, I received as under-sheriff of this county, from Mr. Justice C. Hewitt, the within warrant from the affidavit of Mr. Judson. From the best information I could obtain, I was satisfied the warrants could not be served without assistance from my fellow citizens. I therefore mustered about thirty men in the village of Adrian on Saturday evening, and armed them with muskets belonging to the Territory of Michigan. Early the next morning, I started with my small *posse*, intending to overtake and arrest the Ohio Commissioners and their party. About noon

we came up with them encamped in a small field (owned by one Phillips,) seven miles within our Territory. When I arrived within one-half mile of the Ohio party, I left my assistants under the charge of a deputy-sheriff and accompanied by S. Blanchard, Esq., I went forward in order to make the arrest in as peaceable a manner as possible. On arriving at the camp, I enquired for Messrs. Taylor, Patterson and Sully, the Ohio Commissioners, and was told they had *stepped out* and would be in, in a few minutes. While I was waiting for my party to come up, and for the Commissioners to return, my party came in sight. Col. Hawkins observed, our *friends* are coming (meaning my escort) and we must be prepared for them; when eight or ten of the Ohio party armed themselves with rifles and loaded them in my presence. In a few moments my friends came up and I found the Commissioners had *gone*—not to return. I then commenced arresting the *armed* party consisting of Cols. Hawkins, Scott, Gould and Fletcher, Maj. Rice, Capt. Biggerstaff and Messrs. Ellsworth, Mole and Rickets. After arresting Col. Hawkins, who had in his hand a large horseman's pistol, and another in his pocket, both loaded, the balance of the party took a position in a log house and barricaded the door. When I approached with my party within about eight rods of the house, they all came out except Col. Fletcher, and as I approached them to make the arrest, some of them cocked their rifles and directed me to stand off, for they would not be taken. As I continued to advance upon them, *four* of the party turned and run for the woods; a few muskets were then fired over their heads, and a rush made after them. They were pursued about thirty rods in the woods, when they were all come up with and arrested. The report of a man having a ball pass through his clothes is a mistake. I was with them for three days and heard nothing of the clothes shot alluded to in the report of the Commissioners, and I firmly believe if such had been the fact, I would have heard of it on the trial or *seen the ball hole*.

The nine persons arrested were brought to Tecumseh before C. Hewitt, Esq., and by his certificate hereunto annexed, it appears that two were discharged for want of sufficient testimony to hold them to bail. Six gave bail to appear at our next Circuit Court, and one (Col. Fletcher) refused to give bail, as he says by direction of Gov. Lucas, and is now in custody of the jailer, who permits him to go at large on his parole of honor. I consider it my duty further to state, that the charge repeatedly made, that the officers of Ohio were arrested by a Military party under Gen. Brown, is not true. He accompanied me as a citizen of Michigan without any official station, and the whole movement was merely a civil operation under the sheriff of this county, to sustain the laws of Michigan. There has been no call on the Military of Michigan to my knowledge, connected with the Ohio transaction. And I am also happy to inform your Excellency, that the Commissioners

made good time on foot through the cotton-wood swamp, and arrived safe at Perrysburg the next morning with nothing more serious than the loss of hats and their clothing, like Gov. Marcy's breeches without the *patch*.

WM. MCNAIR, Under-sheriff.

The breaking up of the surveying party and the report they made of the treatment they had received, produced great excitement throughout Ohio. The press spread the news with such comments as corresponded with their views. Most of the papers advocated the course of the Governor, and severely condemned the conduct of Michigan. However, some few of the Whig or Anti-Democratic in politics, took an opposite view, and condemned severely the conduct of Gov. Lucas and those who sided with him. They treated the proceedings on the part of the authorities of Ohio as ridiculous and calculated to bring the State into disgrace. But the number of these presses that spoke freely against the course pursued by the State, were very few. Gov. Lucas, finding it impracticable to run the line or enforce jurisdiction over the disputed Territory, as proposed by Messrs. Rush and Howard, called an extra session of the Legislature to meet on the 8th of June. That body passed an act "to prevent the forcible abduction of the citizens of Ohio." The act had reference to counteracting the previous acts of the Legislative Council of Michigan, and made the offense punishable in the penitentiary not less than three nor more than seven years. An act was also passed to create the new county of Lucas out of the north part of Wood county, and embracing the disputed Territory north of it, and a portion of the north-west corner of Sandusky county. It attached the county to the Second Judicial Circuit, made Toledo the temporary seat of Justice, and directed the Court of Common Pleas to be held on the first Monday of September then next, at any convenient house, in Toledo. There was an act passed, entitled

"AN ACT accepting certain propositions made by the Commissioners appointed by the President of the United States relative to the Northern Boundary of the State."

(This act is of so much importance in the history of this controversy, that I shall make no apology for copying it entire, including the "whereas.")

"WHEREAS, The legislature of Ohio at its last session, passed an act providing for the extension of her jurisdiction over that part

of her Territory claimed to belong to the Territory of Michigan ; And whereas, the civil and military elections under the laws of Ohio have taken place throughout the disputed Territory, and the organization under the same is now in all respects complete; And whereas, this legislature considers the right of the State to the disputed Territory as clear and perfect as her right to any other part of her territory lying within her admitted limits ; And whereas, great and lawless outrages have been perpetrated by the authorities of Michigan upon the citizens of the disputed Territory, for recognizing the laws and rightful jurisdiction of the State within whose limits they reside ; And whereas, this legislature feels bound to protect said citizens from a repetition of such outrages ; yet, as the President of the United States, acting through the Hon. Richard Rush and Benjamin C. Howard, Commissioners on the part of the President, and his Excellency the Governor of this State, entered into an arrangement on the 7th day of April last, having for its object the temporary adjustment of the difficulties appertaining to the possession of, and jurisdiction over the said disputed Territory, the terms and provisions of which arrangement were as follows, viz:

First, that Harris' Line should be run and re-marked pursuant to the act of the last session of the legislature of Ohio, without interruption.

Second, the civil elections under the laws of Ohio having taken place throughout the disputed Territory, that the people residing upon it should be left to their own government, obeying the one jurisdiction or the other, as they may prefer without molestation from the authorities of Ohio or Michigan, until after the close of the next session of Congress ; And whereas, the legislature is willing, from a desire to preserve the public peace and harmony, to observe the stipulations of the arrangement aforesaid : provided its observance on the part of Michigan be compelled by the United States, and the proceedings of Michigan in violation of that agreement be immediately discontinued and annulled. Therefore,

Sec. 1. Be it enacted by the General Assembly of the State of Ohio, That his Excellency the Governor, be and is hereby requested to observe and comply with the terms of the arrangement entered into on the 7th day of April last, by and between the President of the United States, acting through the Hon. Richard Rush and Benjamin C. Howard, Commissioners duly appointed by the President of the United States, and his Excellency the Governor of this State; and if all the terms and stipulations of said arrangement shall be faithfully observed on the part of the United States, and all bonds and recognizances taken, and prosecutions and indictments commenced under the act of the Legislative Council of Michigan of the 12th of February, A. D. 1835, shall be immediately discharged, annulled and discontinued ; then

and in that case, the action and operation of all laws and parts of laws of this State inconsistent with the terms of said arrangement, is hereby suspended until after the close of the next session of Congress.

Sec 2. That if the United States, or the authorities acting under the United States, shall, within the time specified in said arrangement, do any act inconsistent with the terms thereof; or, if said bonds, recognizances, indictments and prosecutions, shall not be immediately discharged, discontinued and annulled as aforesaid, then this act to be null and void.

Sec. 3. That the Governor of this State be, and he is hereby authorized and required to issue his Proclamation, whenever in his opinion the terms and stipulations of said arrangement have been violated, declaring such to be the fact; and from and after the date of such Proclamation, the suspension of all laws and parts of laws aforesaid, shall cease and determine.

June 20, 1835.

JOHN M. CREED,
Speaker of House Representatives.

DAVID T. DISNEY,
Speaker of the Senate."

An act was also passed, making appropriations to carry into effect all laws in regard to the northern boundary. Three hundred thousand dollars were appropriated out of the treasury, and the Governor was authorized to borrow three hundred thousand more on the credit of the State. A resolution was adopted inviting the President to appoint a Commissioner to go with the Ohio Commissioners, to run and re-mark the Harris Line.

These proceedings changed the issue. The proceedings of the previous regular session of the legislature, made Richard Roe or Michigan, defendant, but now the United States became defendant as claimant of title in fee. The determined attitude of Michigan to prevent Ohio from exercising any authority over the disputed Territory, aroused a feeling of State pride that could not well brook the idea, that the thinly populated Territory of Michigan, with her stripling Governor, should successfully defy *Old Governor Lucas*, and the military power of a State of a "million" inhabitants. Gov. Lucas, through his Adjutant-General, Samuel C. Andrews, called upon the Division Commanders to report as soon as possible, the number of men in each Division that would

volunteer to sustain him in enforcing the laws over the disputed Territory. Fifteen out of seventeen Divisions into which the State was divided, reported over ten thousand men ready to volunteer. About two thousand men were estimated for the two Divisions that did not report. These proceedings on the part of Ohio made the authorities of Michigan perfectly furious. They dared the Ohio "million" to enter the disputed ground; and "welcomed them to hospitable graves." Prosecutions for holding office under the laws of Ohio, were conducted with greater vigor than ever. For a time, the people of Monroe county were kept busy in acting as the sheriff's *posse*, to make arrests in Toledo. The commencement of one suit would lay the foundation for many others. Probably there is no town in the West, (always excepting Lawrence in Kansas,) that has suffered more for its allegiance to its Government, than Toledo.

The partizans of Ohio were continually harrassed by the authorities of Michigan for the greater part of the summer of 1835. An attempt was made by the authorities of Ohio to retaliate in kind; but for some reason or other the accused would manage to escape into Michigan proper, or hide at home. Whenever the sheriff of Wood county attempted to make an arrest, there would generally be spies watching his coming and communicate the fact to the accused persons in time to hide, or make their escape out of the place. The town was kept in a great uproar much of the time in watching the movements of the Bailiffs of Monroe and Wood counties. Major Stickney, George McKay, Judge Wilson and many others, of the Ohio partizans, were arrested and taken to the Monroe jail. When Major Stickney was arrested, he fought and resisted the officers valiantly, and was assisted by his whole family, who fought and resisted until they were overpowered by superior numbers. After the Major was arrested, the officer requested him to get on a horse and ride to Monroe. He refused. The officer, with the assistance of his *posse*, put him on by force. He would not sit on the horse. Two men, one on each side, held him while a third man walked ahead and led the horse. In this way they got him about half way to Monroe, when the men getting

tired of holding him on, took a cord and tied his legs together under the horse's body, and in that manner conveyed him the balance of the distance. This is the account the Major himself gave of his arrest and transportation. The deputy-sheriff of Monroe county, Joseph Wood, attempted to arrest Two Stickney, a son of Maj. Stickney. A severe scuffle ensued. Stickney got a small pen-knife out of his pocket and stabbed Wood in the left side, causing the blood to run pretty freely. Wood let go his hold and Stickney made his escape into Ohio proper. Wood was carried home by his friends, as was said, in a dying condition, but really, was very little hurt. The grand-jury of Monroe county indicted Stickney for an assault on the sheriff with a dirk-knife. A warrant was issued on the indictment, but could not be served, in consequence of Stickney fleeing into Ohio and remaining there. Governor Lucas refused to give him up, alleging that the offense, if any, was committed within the limits of Ohio and that the requisition of the Governor of Michigan was without authority of law.

On one occasion, an officer with a *posse* attempted to arrest an individual in the night. The individual had but a moment's warning of the approach of the officer, and started to run. The officer got sight of him and took after. The speed of the two was in proportion to the inducement each had for running. One ran for his fee, the other for his liberty. The liberty inducement prevailed. After a run down the river for about a quarter of a mile, the pursued man jumped straddle of a saw-log lying near shore, and with his hands and feet paddled across the Maumee river and made his escape. It was not generally known who this individual was, but was believed to be Andrew Palmer, then Editor of the *Toledo Gazette*. Palmer was a very active partisan for Ohio, and kept Governor Lucas informed of what was going on. He was regarded as the Governor's right-bower at Toledo, and received from the Michigan partisans the sobriquet of "Governor Palmer."

A Mr. Holloway in Sylvania township, a very excellent good man, was elected and qualified as Justice of the Peace under the laws of Ohio. He, too, was spotted for vengeance. Apprehend-

ing that the officers would be after him, he hid himself in the woods, and lived alone in a sugar-camp shanty for some days. He being a very pious man, his partisan friends, who were fond of the marvelous, reported that Providence had wrought a miracle in his behalf; that little robbers went to his house daily and took food and carried it to him during his stay in the woods. Many of his partisan friends believed it; they claimed it as high proof of the justness of the claims of Ohio to the Territory, and that Providence was on their side. If I had no other information of this transaction than the common marvelous reports prevalent at the time, I should be obliged to leave you to believe it or not, just according to your faith in modern miracles. But the miraculous part of the story rested on a very slight fiction. Mr. Holloway's little children daily took food to him from the house; they had a pet robbin, and usually took it with them; hence, I presume, the robbin story arose; it probably did some good in supporting some persons in their afflictions.

George McKay and Dr. Naman Goodsell, of Toledo, came in for their share of the vengeance of Michigan for the part they took for Ohio. I will let the Doctor tell his own story about himself and McKay in the following communication to Governor Lucas:

“PERRYSBURG, JULY 19, 1835.

“SIR: I am now at this place, after a voyage of twenty-four hours, *via the woods*. Since writing you last, the inhabitants of Toledo have been more or less annoyed by the authorities of Michigan. Yesterday, as I was sitting at dinner, Mr. McKay rode up in haste and exclaimed, I had only time to mount my horse if I meant to escape; that the Michigan forces to the amount of three or four hundred were then in the village. I snatched my rifle and mounted instantly, when we both made for the woods, as all other ways of retreat were cut off. In a short time we found ourselves pursued by a detachment, when we separated, Mr. McKay depending upon the speed of his horse, which I have reason to suppose soon left them; but as I had not a fleet horse, I soon dismounted, tied my horse, and placed my back against a tree, and determined to await their assault; but their whole attention seemed directed to McKay. I waited in my position one hour, and as they did not return for *me*, I went in pursuit of *them*, but could not fall in with any scouts. When night came on, I procured a canoe and was put across the river three miles below the village, where I remained during the night,

and this morning my horse was brought across, and I have made my way to this place.

Mr. McKay, as I understand, was taken at about six o'clock. Mr. Stickney and several others were also taken, and started for Monroe. Their treatment will undoubtedly be severe, as it is declared at Monroe, that the first man hailing a Toledoan, shall be tarred and feathered.

Judge Higgins is here, and will write you on the occasion. The force which entered Toledo is differently stated at from two to four hundred, but I suspect there were not over two hundred and fifty, those of the lowest grade, led on by the Governor's Aide-de-camp, Col. Humphrey, and others. Their conduct was such as might be expected from that class under the excitement; a set of lawless desperadoes, under leaders that did not wish to exercise any restraint.

I have it from good authority, that Governor Mason says that he has received a request from the President to comply with the arrangement of Messrs R. & H., but that he will not, let the consequences be what they will.

We suppose Mr. Secretary Cass must have been at least knowing to this late move, as he wrote to Major Stickney that he should be at this place this day, but has not come.

I shall endeavor to return and take away my family to-morrow, if possible, but shall not bring them to this place, as the actions of most here seem to say "we rejoice in your troubles."

Now for conclusions—our people are getting discouraged; we have no arms, nor succor sent us, which they construe into neglect.

I endeavored to cheer them, but it is difficult to comfort them. The continued harrassing, together with the frowns of our neighbors, are surely hard things to bear up against.

I shall write again as soon as as I find a resting place.

I remain, dear sir, with due respect,

Your obedient servent,

His Excellency, ROBERT LUCAS,
Columbus, Ohio."

N. GOODSSELL.

J. Q. Adams, the District Attorney of Monroe county, Michigan, reported to Gov. Mason on the next day after Dept. Sheriff Wood was stabbed, a detailed statement of the whole affair, accompanied by numerous affidavits.

Adams' account of the matter was forwarded to President Jackson with an urgent appeal for his assistance. He represented that Two Stickney, who had stabbed Wood, had fled into Ohio and was protected by Gov. Lucas. These representations made a strong impression upon the President, that something must be done to check the tendency towards more serious troubles.

Gov. Lucas, soon after the adjournment of the extra session of the Legislature, perceiving that what had been done had caused considerable uneasiness at Washington, for the peace of the country sent to Washington, N. H. Swayne, W. Allen and D. T. Disney, to confer with the President on the subject of the boundary difficulties.

The communications that took place between them and the Secretary of State, John Forsyth, so fully presents the points of difficulty, and the objects to be accomplished by Ohio, that I will present the correspondence entire. These proceedings took place a little more than a fortnight previous to the stabbing of Wood:

“ WASHINGTON, July 1st, 1835.

SIR: In accordance with the wish intimated by the President, at the close of our conversation this morning, we proceed to commit to writing the substance of the suggestions which we then had the honour to submit.

Before we do so, permit us to repeat, that although we have repaired to Washington at the instance of the Governor of Ohio, as indicated in his letter of which we were the bearers, we appear in the character of private citizens, none other.

The purpose of our visit is expressed in the letter referred to; it is to bring about a more full and satisfactory mutual understanding than is believed at present to exist, and to aid in averting the unpleasant consequences which might otherwise possibly arise from the existing posture of things.

The arrangement entered into at Perrysburg with Messrs. Rush & Howard on the 7th of April, ultimo, (vide documents, page 30,) provide:

1st. That Harris' Line should be run and re-marked, pursuant to the act of the Legislature of Ohio, without interruption.

2d. That both parties should abstain from forcible exercise of jurisdiction upon the disputed territory, until after the close of the next session of Congress.

The compromise bill of Ohio (as it is termed) contemplates that this arrangement should be carried out, and that whatever has been done inconsistent with its provisions, should be undone, or in other words;

1st. That the pending recognizances and prosecutions under the act of Michigan, of the 12th of February, 1835, shall be discharged and discontinued.

2d. That no new prosecutions under this act shall be instituted.

3d. That "Harris' Line" shall be run and re-marked by the authorities of Ohio, without interruption from those of Michigan.

4th. That no forcible opposition be made by the authorities of Ohio or Michigan to the exercise of jurisdiction by the other upon the disputed territory within the time specified, the citizens residing upon the territory in question resorting to the one jurisdiction or other as they may prefer.

What Ohio expects and desires, as indicated by the bill referred to, is as follows:

1st. That the authorities of Michigan shall not interrupt the running and re-marking of the "Harris Line" by Ohio.

2d. That the authorities having charge of the prosecutions under the act of Michigan, above mentioned, shall discontinue those prosecutions, and discharge the recognizances taken for the appearance of the defendants, and that they abstain from instituting any new prosecutions under that act within the time stated.

The President remarked that he believed advice from the proper source, to the authorities of Michigan upon those points, would prove effectual.

In this opinion we concur undoubtingly. The steps suggested would, therefore, remove all practical difficulty, and prevent the possibility of an armed collision, growing out of the subject.

Under such a state of things, we feel authorized to say, that while the authorities of Ohio would, as far as possible, consistent with the arrangement of the 7th of April, exercise a peaceable jurisdiction upon the disputed territory, she would do nothing to prevent the exercise of a like jurisdiction by the authorities of Michigan; and that hereafter, as heretofore, she would manifest a spirit of the utmost forbearance, until Congress at its next session, shall have acted upon the subject, and settled authoritatively the contested question of right.

As respects the appointment of a Commissioner on the part of the United States to aid in re-marking the line, that proposition was made by the Legislature of Ohio in courtesy to the General Government.

There is nothing in her legislation which makes the appointment material. We deem it unnecessary, therefore, to remark further upon this point.

In order to render this communication as brief as possible, we have abstained from the discussion of all considerations touching the merits of the controversy.

With great respect, we are, sir,

Your most obedient servants,

N. H. SWAYNE,

D. T. DISNEY.

W. ALLEN.

Hon. JOHN FORSYTH,
Secretary of State, U. S."

“ DEPARTMENT OF STATE,
WASHINGTON, July 3d, 1835. } ”

GENTLEMEN: Your letter of the 1st instant, written in your character of private citizens, was received yesterday.

By the direction of the President, to whom it has been submitted, I now have the honor to reply.

In every thing that has been done or suggested by the President, or by his authority, in regard to the question of the Northern boundary of Ohio, he has been influenced solely by a desire to prevent, without prejudice to the rights of any one, collisions between the authorities of the General, State or Territorial Governments, that would be destructive of the public peace, and bring dishonour upon the institutions of the country.

If his views and wishes have not been correctly understood in Ohio, he is happy to believe that the free communications which you have had with him, and with the head of this department, will enable you to correct the misapprehensions that may exist upon the subject in any quarter.

This department has never been advised by Messrs. Rush and Howard of the arrangements stated in page 30 of the documents published at Columbus by order of the State of Ohio, to which you refer as having been entered into by them at Perrysburg.

The President is, however, induced to believe from the recent proceedings of the Legislature of Ohio, as explained by your letter, and the late resolutions of the Convention of Michigan, that an informal understanding may be produced, through the instrumentality of this department, which will meet the wishes of all, and effect the great object he has been most anxious to promote, the mutual suspension, until after the next session of Congress, of all action that would by possibility produce collision. Supported in this belief by your letter, which he understands to be conformable to the wishes and instructions of Governor Lucas, the President, without taking upon himself any other character than that in which he has heretofore acted, will cause an earnest recommendation to be immediately sent to the acting Governor of Michigan, and the other authorities of the Territory, whom he can rightfully advise in the performance of their duty, “that no obstruction shall be interposed to the re-marking of “Harris Line;” that all proceedings already begun under the act of February, shall be immediately discontinued; that no prosecutions shall be commenced for any subsequent violations of that act, until after the next session of Congress, and that all questions about the disputed jurisdiction shall be carefully avoided, and if occurring inevitably, their discussion shall be postponed until the same period.”

The President confidently trusts that this recommendation, which he believes required by a regard for the public safety and

honour, will be effectual with the authorities of Michigan, and will not fail to exercise all his constitutional power in this, as in every other instance, to preserve and maintain the public tranquility.

I have the honour to be, gentlemen,

Your obedient servant,

JOHN FORSYTH.

Messrs. SWAYNE, ALLEN and DISNEY."

As had been previously stated by Dr. Goodsell, Judge Higgins, the Presiding Judge of the Maumee Judicial Circuit, wrote at Perrysburg to Governor Lucas on the 20th of July, that "the law creating the County of Lucas requires that a Court of Common Pleas be holden in that County, on the first Monday in September next. My own convictions of duty will induce me to effect, if possible, a compliance with the requisition of that law, regardless of any personal consequences. I would, however, enquire whether, considering the excitement of feeling indicated in the Territory, in relation to the questions involved in this subject, there is not evidence enough of a disposition to resist the exercise of jurisdiction to justify the Executive of Ohio in providing for sustaining the authority of the Judiciary. * * * *

No apprehensions of a personal character can be recognized by myself as constituting a motive by which a compliance with my duty can be controlled or postponed; but I should feel acutely, as would every citizen of Ohio, the disgrace of the capture and abduction, by a Michigan mob, of a branch of the Judiciary of the State while actually engaged in the performance of Judicial functions."

On the 29th of July, Gov. Lucas wrote to Messrs. Patterson, Taylor and Seely, the Boundary Commissioners, informing them of the arrangement made with the President, and advised a commencement of the survey of the line on the 1st of September, at the point where they had left off.

He informed them that he had sent "225 rifles and 61 muskets, and equipments, to Port Miami, and would send on a number more soon, sufficient for the purpose of protecting the civil authority in that county. They will be placed under the control of the Court, so that they can be had by the Sheriff, or other officer,

if it should be deemed necessary to protect the civil authority. I will keep my attention directed to the proceedings of Michigan, and will make preparations accordingly, so as to protect the Court from insult while sitting, and the Commissioners while completing the line."

The arrangement of the 3d of July made with Messrs. Swayne, Allen and Disney, defined the base of operations for Ohio. She now had the direct promise of the President that he would advise that "no obstruction shall be interposed to the remarking of the Harris Line, &c." Yet, the authorities of Michigan entirely disregarded these arrangements, as appears from the account of the arrests that were made during the month of July, at different times. Deputy Sheriff Wood was wounded on the 15th of July in attempting to arrest Two Stickney.

On the 29th of August Secretary Forsyth wrote to acting Governor Mason, informing him that his zeal for what he deemed the rights of Michigan, had overcome that spirit of moderation and forbearance, which in the present irritable state of feeling prevailing in Ohio and Michigan, is necessary to the preservation of public peace. That the President felt constrained, therefore, to supersede him as Secretary of the Territory of Michigan, and appoint Mr. Charles Shaler, of Pennsylvania, to be his successor.

On the same day he made the following communications respectively to Mr. Shaler, and to Gov. Lucas :

DEPARTMENT OF STATE, }
WASHINGTON, August 29th, 1835. }

CHARLES SHALER, Esq.:

SIR: The President having found himself constrained by a high sense of public duty to supersede Mr. Mason, Secretary to the Michigan Territory, has appointed you his successor.

The Presidents' views of the course to be pursued by all the parties in this controversy, now unhappily pending between Michigan and Ohio, are fully shown in the various communications made by his discretion to your predecessor, and which you will find in the archives of his office. The President's opinions upon the whole subject have remained unchanged throughout. He has believed from the beginning of the discussion, that without further legislation on the part of Congress, the country in dispute is to be considered as forming, legally, a part of the Territory of Michigan; and that the ordinary and usual jurisdiction over it should

be exercised by Michigan. He has never admitted the right set up by Ohio; and, in his recommendations to both parties, which have been influenced only by a regard for the public peace, he has expressly stated that he does not desire, on either side, what would be inconsistent with their supposed rights; and that whatever temporary concessions might be made, with a view to preserve tranquility until Congress should decide, would not, and could not, effect the rights of either party; and in order to prevent any other than a peaceable decision of the question, he has stated distinctly what his duty would compel him to do, in the event of an attempt, on the part of Ohio, to sustain her jurisdiction over the disputed territory by force of arms. To avoid that necessity, his best exertions have been, and will be used.

He has seen, with regret, and surprise, that both the acting Governor of Michigan and the Legislative Council have supposed him to recommend an admission of the right of Ohio to the jurisdiction in question. Courtesy, if not justice, to a member of the Confederacy, requires that her pretensions should be respected as far as is consistent with the obligations of the Constitution and the laws. An acknowledgment of the right and the temporary arrangement to avoid the danger of hostile collision is, in no respect, inconsistent with the obligations of the Constitution and the laws. Hostile array to decide what force cannot settle, the question of jurisdiction, within three months of the meeting of Congress, whose duty it will be to do justice to all parties, would be a disgrace to the Union, and a stain upon the character of Michigan, whose approaching admission into it, is hailed with joy by all its members.

As there has been exhibited, on the part of Ohio, a disposition not to enforce her claims, but only formally to assert them, an assertion supposed to be required by her character—until the meeting of Congress, it would be criminal in the authorities and people of Michigan, to seek, by any means to bring the question to a different issue.

The President has seen, with regret, the recent outrages committed at Toledo, on the officers of Justice, who attempted to execute process under authority of Michigan, and he recommends that those of the offenders who resisted and wounded a civil officer in the execution of his duty, and have fled from the Territory, should be promptly demanded from the Executive of *any* State in which they may have taken refuge.

I am, sir, respectfully, your obedient servant,

JOHN FORSYTH.

DEPARTMENT OF STATE,
WASHINGTON, August 29th, 1835. }

SIR: By the President's direction, I have the honor to transmit copies of two letters this day written to Mr. Mason and Mr.

Shaler. They will show you the measures which it has been deemed advisable to pursue, and the views entertained by the President in the actual state of affairs resulting from the controversy between Ohio and Michigan.

He hopes that the proofs which these papers afford, of his earnest and sincere desire to prevent any further collision between the authorities and citizens of the State and Territory, will be duly appreciated on all sides. He trusts that they will be met by measures dictated by the same spirit on your part. And as it is apparent, from the recent presentment of the Grand Jury of Wood county, that the inhabitants of Toledo have declined, at present, the jurisdiction of Ohio, he hopes that no attempt will be now made to exercise it within the disputed territory. Such an exercise cannot be necessary for the preservation of order or the administration of justice.

And the claim of the State having been publicly put forward in the face of the whole country, an omission further to enforce it, for the sole and understood object of maintaining the public tranquility, until an opportunity of future legislation be afforded to Congress, cannot be considered as weakening any just foundation on which it may rest. By the exercise of this forbearance on your part, the President confidently believes, that further collision will be avoided, and the whole question be speedily adjusted, to the general satisfaction, without stain upon the reputation of your common country.

I have the honour to be, with high consideration,
Your Excellency's obedient servant,
JOHN FORSYTH.

His Excellency, ROBERT LUCAS,
Governor of Ohio.

The allusion to the action of the Grand Jury of Wood county in the communication to Gov. Lucas, unexplained, is calculated to gain a wrong impression of the course the people of Toledo took at this time; the facts are as follows:

The Court of Common Pleas for Wood county, sat in July. Witnesses were sent before the Grand Jury and examined, who proved that individuals in Toledo had been elected and qualified to offices under the laws of Michigan, and had performed the duties of those offices in disregard of the laws of Ohio. Acts of assaults and battery and resistance of an officer in the execution of the duties of his office, and other offences, were also proved; but as Lucas county, in which Toledo was situate, had been formed by an act of the Legislature in the previous month of June, and a Court was directed to be held in it on the 7th of the follow-

ing September, and as these acts were alleged to have been committed since the passage of the act creating it, the conclusion of the Jury was, that the offences should be tried in Lucas county, and not in Wood.

It was, therefore, a question of jurisdiction of Counties that the Grand Jury decided, when it ignored the indictments against these accused persons. A large and respectable portion of the people of Toledo, and of Wood county, approved of the action of the Jury. It was considered that the finding of indictments, and trying the accused, would accomplish no good result; but would have the effect to increase excitement and make the condition of society still worse.

These communications from Secretary Forsyth had the desired effect; although Gov. Lucas had modified his demands somewhat, previous to receiving them, it now was apparent that if he attempted to take forcible possession of the Territory, he would be met by the military force of the United States. Humbled by pride on the one hand, and a dread of a collision with the United States on the other, contributed to make his position an unpleasant one.

The whole attention of the country was directed to the controversy. To stop where he was, and wait the future action of Congress to settle the question, would be regarded as backing down; he must do something to extricate himself from this dilemma. How he succeeded in doing it, will appear in the following account of the first session of the Court of Common Pleas of Lucas county :

The Legislature had created a new County out of a portion of the disputed territory and a portion of its own proper domain, and called it Lucas, after Gov. Lucas. It had provided for the Court to be held on the 7th of September, at Toledo, within the disputed territory. The actual holding of that Court would be an exercise of a greater jurisdiction than was contemplated in the propositions of Messrs. Rush and Howard, or in the concession of the President to Messrs. Swayne, Allen and Disney. If the authorities of Michigan would keep quiet, there would be no obstacle in the way of holding the Court; although it would be an exercise of jurisdiction over territory not belonging to Ohio, in derogation

of the authority of the United States. Although Gov. Mason, whose acts had been universally approved by the people of Michigan, had been removed, and Mr. Shaler appointed in his place, who was supposed to be more conservative in his views of the controversy, yet the performance of an *unlawful* act in a *lawful* manner, was no easy matter. As it was out of the question to think of resorting to *force*, to accomplish the object, *brains* were used in the place of *muscle*.

Gov. Lucas sent his Adjutant-General, Samuel C. Andrews, to Lucas county, to advise with the Judges and officers, and engineer generally the holding of the Court. The Adjutant-General directed Col. Vanfleet to call out his regiment, to act as a *posse* subject to the orders of the Sheriff, for the protection of the Court. Andrew Coffinbury, an old and experienced lawyer, was engaged by the Governor, to act as an assistant Prosecuting Attorney. Col. Vanfleet promptly obeyed the call, and ordered his regiment to rendezvous at Miami, to be in readiness to serve as the Sheriff's *posse*. Adjutant-Gen. Andrews, accompanied by Major-Gen. Bell, took up quarters at the hotel, in Toledo, demeaning themselves as private citizens, just happening to be there. According to previous arrangement, the Judges, Sheriff, and attendants, met at Miami, on Sunday afternoon, of the 6th of September, to proceed together to Toledo the next morning, under the escort of Col. Vanfleet, to hold the Court.

Col. Vanfleet had only about 100 men of his regiment on the ground. This force was deemed sufficient to disperse any mob that might collect, and it was uncertain whether there would be any obstruction at all. Just at evening, while the Judges and the Colonel were arranging matters, preparatory for a start the next morning, a scout whom the Colonel had sent out to reconoitre, came in and reported that Gen. Brown had just arrived at Toledo with a large military force, to prevent the holding of the Court. He was reported to have 1200 men completely armed with muskets, and a train of artillery.*

*Gen. Brown corrects this account by stating that his main force halted at Mulholland's, and remained there on the night of the 6th, and that he sent Col. W. Wing forward to Toledo with a detachment of 100 men, to watch the Judges, and arrest them, if they attempted to open Court. The main force arrived at Toledo next day. This account of Gen. Brown, I accept as true, rather than the report of the scout.

The Judges were confounded with fear at learning these facts—Col. Vanfleet, at once, ordered his men to form into line; the report brought by the scout was discussed by Judges and Sheriff; some of them were in favor of giving up, and not attempt to hold the Court; some said they would be laughed at, if they *backed out*; that it was their duty to make the attempt. The subject was discussed pretty freely without arriving at any definite conclusion. Judge Higgins and Andrew Coffinbury were not present, and therefore, the Associate Judges hesitated the more, on that account. They did not feel like taking so much responsibility on themselves alone, without the President Judge and the able assistance of the “old Court.”

As they could not come to an understanding among themselves, as to the proper course to pursue, they agreed to leave the matter with Col. Vanfleet, and abide by his decision. While this discussion was going on, the Colonel did not say a word; but with sword in hand, walked up and down the line in front of his men, and within hearing distance of the Judges. Those that were opposed to going to Toledo, were in favor of leaving the matter with the Colonel, supposing that he would not think of exposing his 100 men, to be gobbled up by 1200; and would, therefore, decide not to go, and relieve them from the responsibility of refusing. The Colonel, fruitful in military expedients that would have done credit to a veteran of the regular army, already had his plans arranged. He turned to the Judges, and with a determined military bearing, exclaimed, “If you are *women*, go home; if you are *men*, do your duty as Judges of the Court; I will do mine. If you leave the matter entirely with me, I will be responsible for your safety, and insure the accomplishment of our object; but if otherwise, I can give you no assurance.”

This settled the discussion; the honour and safety of the Court, and the “peace and dignity of the State of Ohio,” were placed in his keeping. He addressed his men, and told them that he was about to undertake a hazardous expedition, and wanted the services of 20 of the best men in the regiment to go with him, and the balance to remain in Camp, ready for orders. All those who were willing to share the dangers and honor with him in uphold-

ing the authority of the State, and protecting the dignity and honour of the Court, were requested to advance 4 paces to the front. Thirty as brave men as ever faced a foe, advanced; and twenty out of that number were selected. He was restricted to 20 men, as he had only horses enough to mount that number. He gave orders to Capt. Granville Jones, the officer left in command of the camp, to be prepared to execute any orders that he might send him. He told the Judges that the 7th of September would commence immediately after midnight, and that there was no hour specified in the law when the Court should be opened. Gov. Lucas wants the Court held, so that by its record, he can show to the world that he has executed the laws of Ohio over the disputed Territory, in spite of the vapouring threats of Gov. Mason. If we furnish him that record, we shall accomplish all that is required. Be prepared to mount your horses to starte for Toledo at precisely 1 o'clock, A. M. I will be ready with an escort to protect you."

At the hour named, the Judges and officers of Court, were promptly in the saddle. Col. Vanfleet was ready with his 20 men, mounted and completely armed. Each man had a rifle in addition to his two cavalry pistols. They proceeded to Toledo, reaching there about three o'clock, A. M., and went to the school house that stood near where Washington street crosses the canal, and opened Court in due form of law. Junius Flagg acted as Sheriff. The proceedings were hastily written on loose pieces of paper and deposited in the Clerk's hat. When the Court adjourned, the officers and escort went to the tavern, then kept by Munson H. Daniels, not far from where the American House now stands, kept by J. Langderfer, registered their names and took a drink all round; while filling their glasses for a second drink, a mischievous wag run into the tavern and reported that a strong force of Michigan men were close by, coming to arrest them. They dropped their glasses, spilling the liquor they intended to have drunk, and sprang for their horses with all possible haste, leaving bills to be settled at a more leisure time. As they had accomplished the work intended, speed was of more importance

than valor. A backward charge from the enemy was made at the top of the speed of their horses.

They took the trail that led to Maumee, by way of the route nearest the river. They went at such a furious speed that, if their charge had been made in the opposite direction towards the enemy, they would have pierced the most solid columns. When they arrived at the top of the hill, near where the Oliver House now stands, not discovering the enemy in pursuit, they came to a halt and faced about. It was then discovered that the Clerk had lost his hat, and with it the papers containing the proceedings of the Court, from which the record was to be made up. The Clerk wore one of those high bell-crowned hats, fashionable in those days, and which he used for carrying his papers as well as covering his head. It was then the custom in travelling to carry every thing in the top of hats, from a spare collar and dickey to Court papers. The hat of the Clerk, reaching high above his head, burdened with its load of papers and other incumbrances, was steadied on by the left hand for greater safety, while the right held the reins. But in spite of this precaution, it struck against an overhanging limb of a tree with such violence, that it was knocked off and fell to the ground. Having succeeded in holding the Court without molestation or blood-shed and now losing the papers, would leave them in as bad condition, or worse, than if they had done nothing, in case they should fall into the hands of the enemy. Notwithstanding, they all believed they had been discovered and pursued, and might be surrounded by superior numbers and taken, if they delayed; yet the importance of recovering the papers was such as to nerve them to the boldest daring. Col. Vanfleet's courage and tact did not desert him in this emergency. He had succeeded in accomplishing what had been contemplated; and now their labour would be lost, and the expedition be an entire failure, without a recovery of the papers. With him, to will, was to do. He directed the Clerk and two of the guards to dismount, and feel their way back carefully in search of the papers, while the balance of the *posse* kept watch, to cover retreat. He cautioned them to move with as little noise as

possible, and if likely to be discovered by the enemy, to conceal themselves, and watch their movements so that they could use the best possible advantage to accomplish their object. The orders were, that nothing but utter *impossibility* would excuse a failure to recover them. The search proved safe and successful; the hat was found and the papers recovered. The party reported no enemy in sight. The State of Ohio was now triumphant; a record could be, and was made up, and still exists, to prove that the State of Ohio on the 7th day of September, 1835, exercised jurisdiction over the disputed Territory, by holding a Court of Common Pleas in due form of law. Here is the record made up from the recovered papers:

“THE STATE OF OHIO, LUCAS COUNTY, SS.:

At a Court of Common Pleas, began and held at the Court House, in Toledo, in said County, on Monday, the 7th day of September, Anno Domini, Eighteen Hundred and Thirty-five. Present, the Honourable Jonathan H. Jerome, Senior Associate Judge, of said County; their Honours, Baxter Bowman and William Wilson, Associate Judges. The Court being opened in due form by the Sheriff of said Country. Horatio Conant being appointed Clerk of said Court, exhibited his Bond, with sureties accepted by the Court agreeably to the Statute in such case made and provided. The Court appointed John Baldwin, Robert Gower and Cyrus Holloway, Commissioners for said County. No further business appearing before said Court, the Court adjourned without day.

J. H. JEROME, Associate Judge.”

The feeling of joy at recovering the papers was so great, that Col. Vanfleet ordered two salutes to be fired on the spot. He well knew that the distance to the line of the State, where there was no dispute about jurisdiction, was but small, and that if pursued, they could reach there before being overhauled. The party proceeded to Maumee at a leisure pace, reaching there a little after day-light.

While the Court was in session Col. Wing, with a detachment of 100 men, was stationed in the village to watch the Judges, and arrest them if they appeared and attempted to hold Court. The failure to discover the Judges was no evidence of lack of vigilance on the part of the Michigan authorities. Gen. Brown did his

duty. He had never witnessed the opening of Courts at that early hour in the morning, and was, therefore, taken entirely by surprise. The first intelligence that he and most of the citizens of Toledo had of the holding of the Court, was obtained after they heard the salute fired by the escort. Gen. Brown and Gov. Mason were very much disappointed. Although on the 29th of August, a communication was written notifying Gov. Mason that he had been superseded by the appointment of Charles Shaler, in his place, yet he accompanied the expedition, and on the 6th of September issued a General Order as the Executive of Michigan, assigning Gen. Brown to the chief command of the military forces. Charles Shaler does not appear to have accepted the appointment.

Although it may be a nice question to determine how much Ohio gained, or Michigan lost, by this contest, yet it must be admitted that, according to the usual tactics in war, Ohio was justly entitled to the victory. It was no ordinary achievement. Col. Vanfleet, with only 20 men, almost in the face of 1200, sixty times his own number, by strategical movements, achieved a victory that another commander might have lost with the destruction of all his forces.

Ohio had determined that she would get possession of the disputed territory; Michigan had equally determined that she should not until a higher power than herself gave it to her. The President said Michigan was right in her claim, but that she ought to be polite and respectful to Ohio as a full grown sister in the Union. Michigan insisted that her not being of age, should not deprive her of the privilege of protecting her rights. She carried out her resolution in spite of the parental advice at Washington. She met Ohio with commendable pluck and ample force, to learn by experience the important truth that "the battle is not always to the strong, nor the race to the swift." Whatever of honor or advantage the State of Ohio gained in this contest, she owes to Col. Vanfleet, the General Jackson of Lucas County. General Jackson saved New Orleans and upheld the honor and glory of the American Flag with the loss of only seven men in an engage-

ment with more than twice his own number, while Col. Vanfleet upheld the peace and dignity of the State of Ohio within the County of Lucas, against sixty times his own number without the loss of a single man or the shedding of one drop of blood.

I am aware that an official report of the holding of this Court was transmitted to the Governor of Ohio by Adjutant General Andrews which differs in many particulars from the one above given. It may be considered presumptuous to contradict an official document made out at the time of the transaction, by a statement from memory at this late day; yet I am for the truth of history, while writing history; and appeal to all the old residents of that day who were knowing to the facts, for the truth of the account I have given. That the reader may judge of the probability of the truth of my account as compared with that given by the Adjutant General, I refer to appendix for his report. The excesses alluded to by the Adjutant General in his report, as having been committed by the Michigan forces, were rather against the property than the persons of the citizens of Toledo. No excesses were permitted with the knowledge of the General in Command. There was some private "bumming," however, for which no one was responsible but the individuals engaged. Poultry yards and potatoe patches suffered some. One morning Major Stickney saw something in his garden, made up of a human figure at one end and potatoe vines at the other. He hallooed, and asked what was going on there. A full dressed soldier stretched up and replied: "Drafting potatoe-tops to make the bottoms volunteer, sir."

On the 19th of Feb., 1846, the Legislature of Ohio by resolution authorized the payment of three hundred dollars to Major Stickney for damages to his person and property, on account of depredations committed on him during this contest, and also authorized the Auditor of State to adjust and pay him all costs and expenses incurred by him on account of being arrested on the 8th of May and 20th of July 1835, and being taken to Monroe jail in Michigan.

Gov. Mason and Gen. Brown finding no further use for an armed force, repaired to Monroe and disbanded their army. John S. Horner, after this appears to have been the Acting Governor of

Michigan. A lengthy correspondence was carried on between him and Gov. Lucas which resulted in the discontinuance of the prosecutions commenced under the act of the Territorial Legislature of the 12th of February 1835, except in the case of Two Stickney, who stabbed Deputy-Sheriff Wood, in the previous July. Gov. Horner made a requisition on Gov. Lucas for him as a fugitive from justice. Gov. Lucas refused to give him up, claiming that the offence, if any, had been committed within the limits of Ohio, and that therefore the Courts of Michigan had no jurisdiction over him. Although this refusal was in direct opposition to the views of the authorities at Washington, no serious difficulty grew out of it.

The people of the disputed Territory from this time on, were left to regulate matters in their own way. Public sentiment among the inhabitants gradually settled down in favor of the Ohio jurisdiction, and peace and quietness were restored. The Boundary Commissioners, having failed to proceed to finish remarking the Harris Line on the first of September as contemplated, resumed the work on the second of November, and completed it without molestation.

At the next session of Congress, on the 15th of June 1836, Michigan was admitted into the Union with her Southern boundary next to Ohio limited to the Harris Line, and the disputed Territory was given to Ohio. Congress gave Michigan the valuable mineral lands adjoining Lake Superior to make up the loss of the Territory given to Ohio; both parties thereby acquiring lands that neither *had* any legal right to, after having exhibited their prowess in war without blood-shed.

In conclusion; wishing to give full justice where justice is due, I append copies of Gov. Mason's General Orders to the Army on the 6th of September, and General Brown's of the same date, and also the latter's of the 10th September 1835, to rebut any presumption that the "Toledo War" was a joke:

"GENERAL ORDERS, HEAD QUARTERS,
MULHOLLAND'S Sept. 6th, 1835. }

The Command of the troops assembled by order of the Executive, for the purpose of supporting the civil authorities in asserting the supremacy of the laws and maintaining the jurisdiction of

and although young in history, Michigan must be placed by us in the proud attitude of seeking to do no wrong, and never shrinking to defend the honor of the country and the inviolability of her soil.

By order of the Commanding General,
ALPHEUS PHELPS, Aid-de-Camp."

"HEAD QUARTERS, FIFTH DIVISION, MICHIGAN MILITIA, }
Order No. 4. MONROE, September 10th, 1835. }

The different Regiments, Battalions and Corps comprising the Brigade of Michigan Volunteers, now assembled at this place, will immediately be put in march by their several commandants for their respective homes. On their arrival at their usual places of rendezvous, they will be temporarily dismissed, with orders to consider themselves in service for thirty days, and to hold themselves in readiness to march at a moment's warning, to such point as may be indicated by proper authority.

The ordinance and ordinance stores, arms and munitions of war, and public stores of ever description, will be turned over to Major Ulman, to be placed in public store in the village of Monroe.

In taking leave of the brave men he has had the honor to command, Brigadier General Brown would do injustice to his own feelings did he neglect this opportunity of expressing his high regard for the manly and patriotic manner in which they have obeyed the call of the Executive to assist him in sustaining the laws of the Territory and the inviolability of its soil. Abandoning their homes, their pursuits and their comforts, they cheerfully repaired to the camp; and the General is convinced they would, with the same promptness, have marched into battle in defence of their country and its rights. Their conduct while in arms has been worthy the noble cause which brought them together, characterized by a cheerful obedience to their officers, and a soldier-like respect for discipline and law. It has never been his fortune to meet his fellow citizens where they more completely secured his confidence and regard. Individually, Brigadier-General Brown returns his sincere thanks to the officers and soldiers of his command, and while he bids them farewell, expresses his confidence that should their services still become necessary, they will with the same alacrity return to their duty.

By order of the Commanding General,
ALPHEUS PHELPS, Aid-de-Camp."

APPENDIX.

The following is the main part of Adjutant General Andrews, report, dated Columbus, September 19th, 1835 :

“The court was accordingly held under these circumstances: The judges and sheriff of the County met at Toledo on Monday, which was the 7th, and attended by a small posse, opened Court, organized, appointed their Clerk, County Commissioners, &c ; and after performing such business as was necessary for a complete organization of the County, and making up their record, adjourned without molestation. In the meantime, the opposing force had entered the place, and taken possession of the adjoining village, with the express purpose, as was declared, of preventing the session.

They had, it is asserted, information of the fact, and made arrangements accordingly. No interruption, however, took place, although with the exception of a few riflemen, not exceeding fifteen men with Col. Vanfleet, as a posse, the Court was without protection, save what the unarmed citizens who were present, might have afforded.

Judge Higgins not having arrived, the Hon. William Wilson, the Hon. Baxter Bowman, and the Hon. J. H. Jerome, appointed judges, officiated. Horatio Conant of Maumee, was appointed clerk. Agreeably to the accounts contained in the *Toledo Gazette* extra, as well as from the testimony of such of the citizens as were present, every thing as to their organization and the performance of the business before them, was conducted by the court, on the occasion, with all the usual method ; all the attention to form and regularity which belongs to such proceedings, and of this the record of their business I afterwards saw, appears in evidence. During their session, and upon information of the fact being given to the leaders in the hostile camp, a general rush is said to have taken place, and many buildings to have been assailed, while that in which the Court was sitting, which is stated as the public school house, and the only building of a public character in Toledo, remained undisturbed. I mention these facts by reason of the reports put in circulation by this opposing multitude, that the business was hurried through ; that, the Court was convened at an unusual hour ; that there was a large force from Ohio present ; with other pretences equally unfounded and extravagant.

It appears that the multitude comprising this invading army, assumed as far as possible, upon entering Toledo, the appearance of a regular military force—were headed by the acting Governor of the Territory, accompanied by his officers in their uniforms, and attended with a numerous train of baggage waggons, containing camp equipage, ammunition, provisions, whiskey, &c., and a piece of artillery. They entered Toledo on Sunday the 6th inst., where they remained until Monday, and some part of them until the Tuesday following, when they disappeared entirely, with the exception of a straggling band, who afterwards returned in search as was pretended, of the Judges of the Court, but engaging in the customary excesses and proceeding, to acts of violence against certain of the citizens; the inhabitants were aroused to resistance, and they were forcibly expelled. Their whole number, upon entering Toledo, appears to have been not to exceed eleven hundred, and to have been reduced at the time of their retreat, to something between five and six hundred.”

